

BOARD OF APPEALS CASE NO. 5062

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BEFORE THE

APPLICANTS: Donald & Joanna Harvey

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ZONING HEARING EXAMINER

REQUEST: Variance for an existing accessory structure larger than 50% of the square footage of the principal dwelling; 3631 Mill Green Road, Street

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 6/28/00 & 7/5/00

HEARING DATE: July 31, 2000

Record: 6/30/00 & 7/7/00

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Donald and Joanna Harvey, are requesting a variance to Section 267-26C(1) of the Harford County Code for an existing accessory structure more than 50% of the square footage of habitable space of the principal dwelling (1150 sq. ft. permitted, 2800 sq. ft. existing).

The subject parcel is located at 3631 Mill Green Road, Street, Maryland 21154 and is more particularly identified on Tax Map 18, Grid 2D, parcel 282. The parcel consists of 2.0 acres, more or less, is zoned AG Agricultural and is entirely within the Fifth Election District.

Mr. Donald Harvey, the Applicant, appeared and testified that he and his wife own the subject parcel. His lot was created in 1990 by virtue of the approval granted in Board of Appeals Case 4066 (9/13/90). The Applicant was granted, in that case, creation of the subject parcel with an accessory structure located less than the required 10 feet from the property line. The Applicant explained that his entire parcel is surrounded by his father-in-law's farm and that allowed in Case 4066 were two buildings used for farm equipment storage. The Applicant explained that the old buildings were deteriorating and had become unsafe and he simply was replacing them. He did not know he needed a permit or variance to replace an existing structure. The present structure is 3 feet higher than the old building and slightly larger than the previous two combined. It will have no plumbing nor is it intended for living space. It will continue to be used to store farm equipment.

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The Applicant felt the subject property was unique in that it is surrounded by the property that the proposed building is designed to serve. The building is of a type and size commonly found on other farms in Harford County and he did not feel any adverse impact would result from its construction, size or location.

The Department of Planning and Zoning agreed with the Applicant that the subject parcel was unique and that practical difficulty and hardship would result if the Applicant's request were not granted. There were no persons who appeared in opposition to the request.

Conclusion and Recommendation:

Harford County Code Section 267-26 provides:

“Use limitations. In addition to the other requirements of this Part 1, an accessory use shall not be permitted unless it strictly complies with the following:

- (1) In the AG, RR, R1, R2, R3, R4 and VR Districts, the accessory use or structure shall neither exceed fifty percent (50%) of the square footage of habitable space nor exceed the height of the principal use or structure. This does not apply to agricultural structures, nor does it affect the provisions of § 267-24, Exceptions and modifications to minimum height requirements. No accessory structure shall be used for living quarters, the storage of contractors' equipment nor the conducting of any business unless otherwise provided in this Part 1.

Area variances may be permitted, as provided in Section 267-11, provided the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

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Based on the testimony of the Applicant and the findings of the Harford County Department of Planning and Zoning, the Hearing Examiner finds that the subject property is topographically unique. It is completely surrounded by a family farm owned by the Applicant's father-in-law. The Applicant assists in the operation of that farm and the building on his property is used to store equipment used on his father-in-law's farm. The building replaces two older buildings and is already erected and near completion. The Applicant would suffer real hardship if he were required to take down the building. The Hearing Examiner finds further that there will be no detrimental impact to adjoining properties as a result of approval of the Applicant's request nor will the purposes of the Code or the public interest be materially impaired. The building itself is similar in size and design to other storage buildings commonly found on Harford County farms.

The Hearing Examiner recommends approval of the Applicants' request, subject to the following conditions:

1. The Applicants obtain all necessary permits and inspections.
2. The building not be used for living space.
3. The building not be used for storage of commercial vehicles or in furtherance of a business use other than the farm operations described by the Applicant.

Date AUGUST 15, 2000

William F. Casey
Zoning Hearing Examiner